

**PLANNING AND ZONING COMMISSION
STAFF REPORT**

November 20, 2008



Planning Variance PV 08-35: Buckey Turk

CASE DESCRIPTION: a request for approval of a variance from the design standards for commercial parking areas, to allow the backing of vehicles from an existing commercial parking area into Royal Street in conjunction with the redevelopment of the subject property

LOCATION: 106 Royal Street between South College and Cavitt Avenues

LEGAL DESCRIPTION: Lot 1, Block 1, Ice House Subdivision

ZONING: South College – Business District (SC-B)

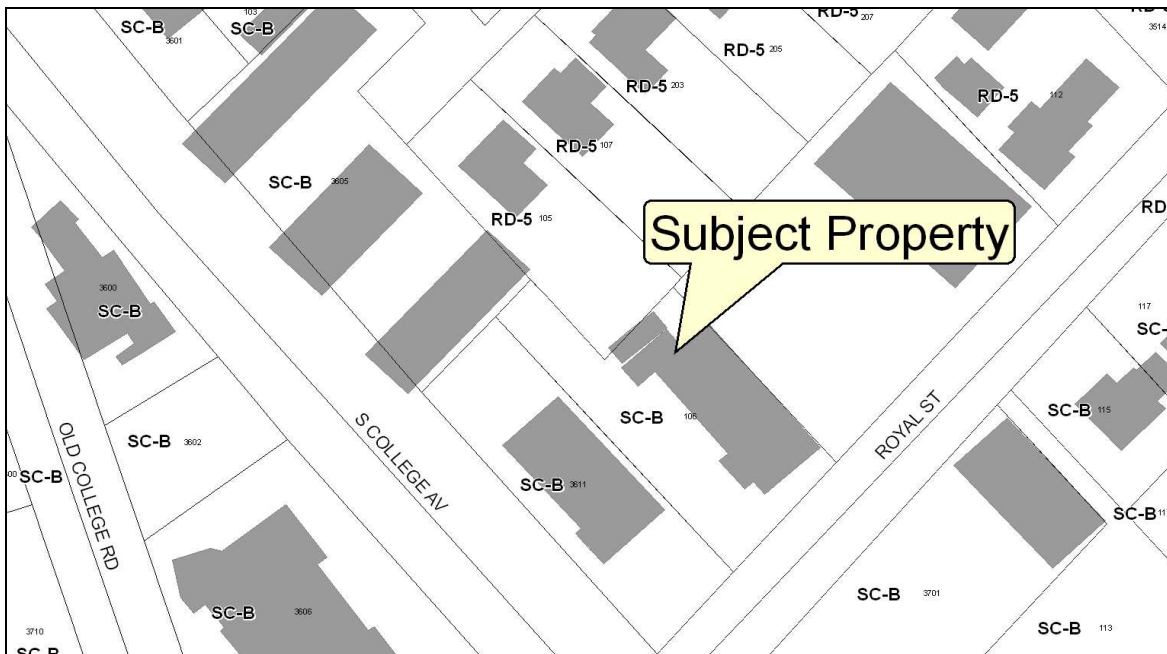
EXISTING LAND USE: legally non-conforming warehouse

APPLICANT: Mr. Buckey Turk

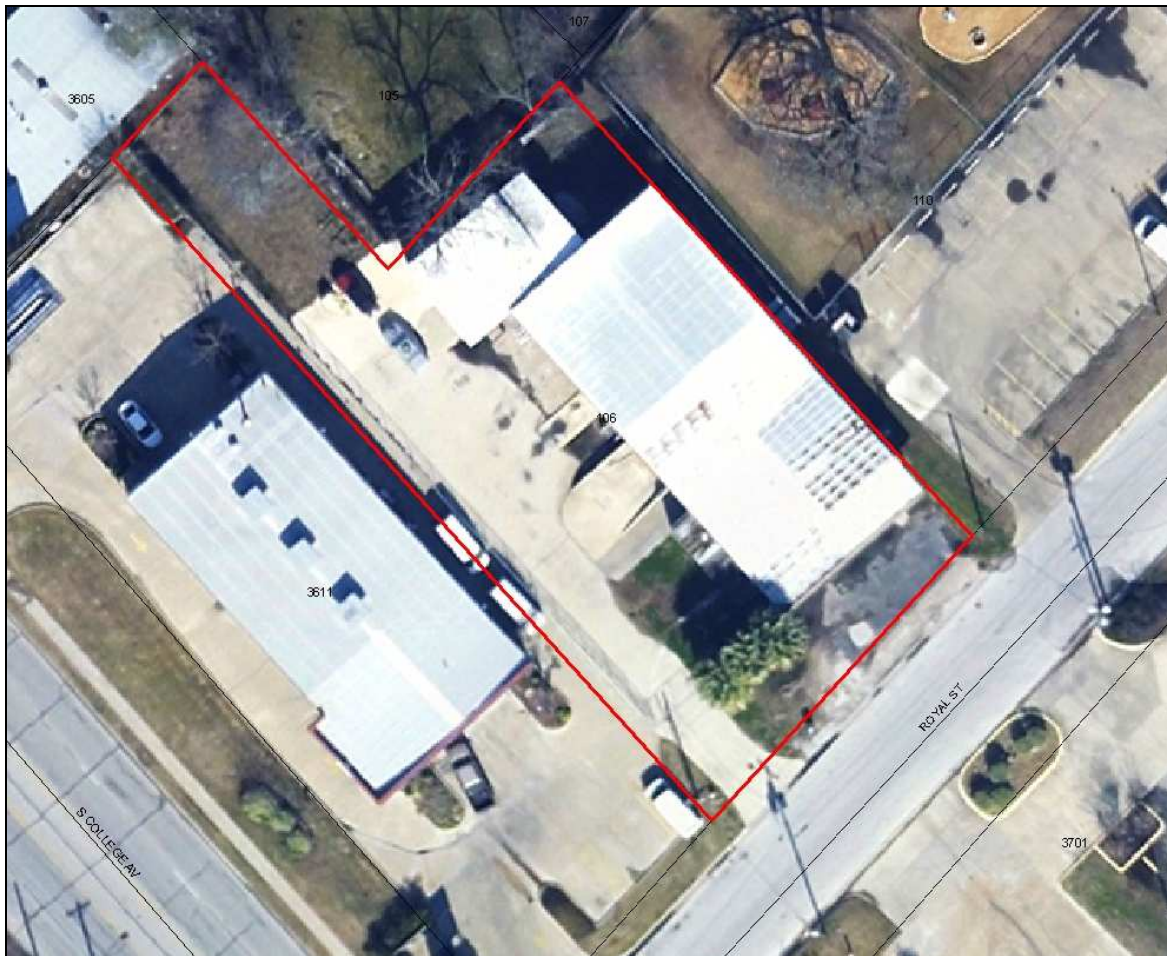
STAFF CONTACT: Randy Haynes, Staff Planner

SUMMARY RECOMMENDATION: Staff recommends **denying** the requested variance.

Location Map:



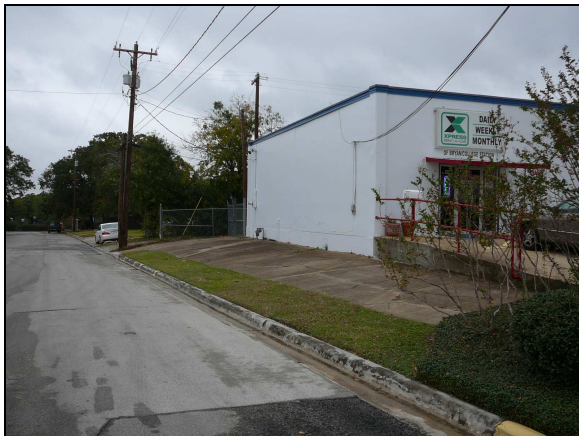
AERIAL PHOTOGRAPH (2008)



SUBJECT PROPERTY:



OTHER COMMERCIAL PROPERTIES ON ROYAL STREET:



BACKGROUND:

The subject property is 0.44 acres in size and adjoins the north side of Royal Street between South College and Cavitt Avenues. Previously the use of the property was an ice manufacturing business. The applicant, Mr. Buckey Turk, desires to use the existing structure on the property for warehouse storage.

In the event a site undergoes a change of use, change of ownership, the Site Development Review Committee (SDRC) may require site improvements in order for the site to comply with current development standards. It is the policy of the SDRC in its review to particularly require safety related site improvements any time the ordinance specifies an opportunity for review.

Mr. Turk purchased the property in early 2007. On June 19, 2007 the SDRC notified Mr. Turk that installation of curbing, landscaping and a sidewalk would be required along Royal Street in accordance with Land and Site Development Ordinance Section 62-296(a)(1) which stipulates that "nonresidential parking areas shall be designed to not allow backing of vehicles into a public street." The requested site improvements would eliminate existing head-in parking spaces off Royal Street in front of the existing building on the subject property.

Rather than eliminating the non-conforming parking and construct the site improvements, Mr. Turk is requesting variance from the design standards for commercial parking areas, which, to allow the backing of vehicles from the existing commercial parking area into Royal Street

ANALYSIS:

The Planning and Zoning Commission may authorize a variance from the minimum number of required off-street parking spaces stipulated in the Land and Site Development Ordinance. No variance shall be granted unless the Planning and Zoning Commission finds that all of the following criteria are met:

1. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of his land;

The applicant has identified no special circumstances or conditions affecting the land where strict application of the development regulations will deprive the owner reasonable use of the property. Strict enforcement of design standards for commercial parking areas will still allow the applicant reasonable use of the property.

2. That the variance is necessary for the preservation and enjoyment of substantial property rights of the applicant;

The applicant has stated that elimination of head-in-parking will “severely limit” the use of the front entrance to the building. Staff finds that there is adequate room on the site to develop customer parking that is accessible to the front of the building. Staff believes that, in this particular case, strict application of the provisions of the ordinance will not create an undue hardship due to the particular size and location and use of the subject property. Staff contends that the applicant will be able to provide adequate parking for the use proposed without utilizing a parking design that will require the use of head-in-parking. Staff therefore contends that granting the variance is not necessary for the preservation and enjoyment of substantial property rights of the applicant.

3. That the granting of the variance will not be detrimental to the public health, safety or welfare or injurious to other property or public facilities in the area;

Staff finds that head-in parking along Royal Street will be detrimental to health and safety of the general public. Commercial traffic backing into the right-of-way is inherently less safe than having maneuvering areas for off-street parking located entirely on private property. In this particular case, staff has identified three factors that potentially impact this property.

- a. **A commercial driveway is located directly opposite the subject property along the south side of Royal Street. The current use of the property across the street is an auto repair/auto rental business. Customers doing business with the auto rental business are, by definition, driving cars that they are not familiar with. While it is clearly the drivers responsibility to safely operate any automobile, the addition of traffic backing into the street at this location could add an additional opportunity for conflict.**
- b. **The parking area in question on the subject property is located only 157 feet from the intersection of South College Avenue and Royal Street. Ordinance standards prohibit commercial driveways within 150 feet of an intersection. In this case, there already exist three driveways within this 150 foot space. If allowed to continue, head-in-parking at this**

location will add cars traveling backward into this already crowded area. Failing to close head-in parking at the subject location will exacerbate an already undesirable and unsafe situation.

- c. The adjacent property is occupied by a large child care operation with a current enrollment of 130 to 150 children. This business alone generates over 300 vehicle trips per day along Royal Street. The parking area in question is located only 20 feet from the access driveway to the child care facility.

Staff contends that allowing cars to continue to back into the traffic stream on Royal Street is inherently unsafe. Staff further contends existing conditions on properties such as the subject property are the reason stricter driveway design standards were enacted. The change of ownership and change of use that has occurred at this location is the event set out in the ordinance that allows the public to require that these safety-related changes be implemented. It is important to keep in mind that the section of the Land and Site Development that authorizes the P&Z to grant variances also stipulates that solely financial hardship or possible reduction of investment return may not be considered as factors in considering a variance request.

4. That the granting of the variance will not have the effect of preventing the orderly development of the applicant's land and/or land in the vicinity in accordance with the provisions of this ordinance.

The applicants land is already developed. Space for adequate parking is available elsewhere on the site. Granting the variance will prevent the application of the ordinance which has been adopted by the City Council to improve conditions in Bryan that affect public safety.

Redevelopment along Royal Street over the past few years has seen adjacent property owners make investment in their property to comply with current development ordinances. Specifically, Superior Auto Service has closed head-in-parking on property directly across the street from the subject site. Also, Fries Financial has added off street parking to two former residential structures that serve as office buildings.

Staff contends that granting the requested variance will prevent or slow orderly redevelopment in this area and devalue efforts and investment made by adjacent property owners.

RECOMMENDATION:

Based on all of these considerations, staff recommends **denying** the requested variance.